

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARCELLA KIST, individually)
and on behalf of all others)
similarly situated,)
Plaintiff,)
)
v.) Civ. A. No. 13-10262-MLW
)
SEMPRIS, LLC and DIGITAL)
RIVER, INC.,)
Defendants.)

ORDER

WOLF, D.J.

April 1, 2014

As stated at the March 31, 2014 hearing, it is hereby
ORDERED that:

1. Defendant Sempris, LLC's Motion to Dismiss Counts II, III, IV and V of the First Amended Complaint (Docket No. 35) and defendant Digital River, Inc.'s Motion to Dismiss Plaintiff's First Amended Complaint, or, in the Alternative, Motion for More Definite Statement (Docket No. 39) are DENIED.

2. By April 18, 2014, the parties shall, as to individual plaintiff Marcella Kist only, provide the automatic disclosures required by Federal Rule of Civil Procedure 26(a)(1) and Rule 26.2(a) of the Local Rules of the United States District Court for the District of Massachusetts.

3. By May 12, 2014:

(a) The parties shall confer, discuss settlement, and submit a joint statement concerning a proposed pretrial schedule. See Local Rule 16.1(b), (c), (d).

(b) The parties shall confer and shall report, jointly if possible but separately if necessary, their respective positions concerning:

i) Whether the court has jurisdiction over this putative class action under the Class Action Fairness Act, 28 U.S.C. §1332(d). See Amoche v. Guar. Trust Life Ins., 556 F.3d 41 (2009). Their submission(s) shall address, among other things, whether there is a distinction concerning this question between the putative "Sempris Class" and "Massachusetts Subclass" defined in the First Amended Class Action Complaint.

ii) The law of which jurisdiction governs the claims of the individual plaintiff, and the law of which jurisdiction would govern the claims of the putative class, if certified.

iii) The appropriate deadline for any further amendment of the class action complaint, including any amendment to add other plaintiffs as putative class representatives.

iv) Whether they have reached an agreement to settle this case and, if not, whether they wish to go to mediation before this court or before a magistrate judge.

4. A scheduling conference will be held on May 27, 2014, at 3:00 p.m. The parties shall comply with the attached Notice concerning the scheduling conference.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE